

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 0:16-cv-02547-SRN-LIB
)	
William J. Mooney, et al.,)	
)	
Defendants.)	

**United States’ Memorandum of Law in
Opposition to Defendants’ Motion to Dismiss/Vacate Judgment**

The Mooneys move to dismiss or in the alternative to vacate this Court’s judgment, asserting that the Court lacks subject-matter jurisdiction because the Court is not a valid Article III court.¹ The magistrate judge has ordered the parties to provide additional briefing, after which the court will “determine whether or not a hearing on the motion will be helpful to the Court.”²

The United States’ position is that the motion – whether deemed a Rule 59(e) motion to alter or amend the May 18, 2018 judgment or a Rule 60 motion for relief³ - is baseless and a hearing is not necessary.

¹ Dkt. 157.

² Dkt. 160 at 1.

³ “Rule 59(e) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence.” *Carlson v. Ritchie*, 960 F. Supp. 2d 943, 956 (D. Minn. 2013) (citing *United States v. Metro. St. Louis Sewer Dist.*, [440 F.3d 930, 933 \(8th Cir. 2006\)](#)), *aff’d*, 573 F. App’x 608 (8th Cir. 2014). A Rule 60(b) motion “provides for extraordinary relief which may be granted only upon an adequate showing of exceptional circumstances. ... We will reverse a district court’s ruling on a Rule 60(b) motion only if there was a clear abuse of the court’s broad discretion.” *Williams v. York*, 891 F.3d 701, 706 (8th Cir. 2018) (citations omitted).

The Mooneys continue to rely on frivolous tax-protestor arguments repeatedly rejected by the Court. In moving for summary judgment, the Mooneys asserted that this case should be dismissed because this Court lacks subject-matter jurisdiction and personal jurisdiction.⁴ The Mooneys' arguments were, and are, frivolous. This Court has already reviewed the statutes on which the United States relied in bringing suit and concluded the Court has jurisdiction, noting that the Mooneys "can present no non-frivolous arguments in favor of their jurisdictional motions."⁵

The Mooneys also argued in moving for summary judgment that "proper venue is an Article III Court and believe there is no proof to the contrary."⁶ The Mooneys' argument was, and is, frivolous. The Court has already determined that it has jurisdiction, as an Article III court, to adjudicate this case under 28 U.S.C. § 1331, which provides district courts original jurisdiction for "all civil actions arising under the Constitution, laws, or treaties of the United States"; § 1340 (statutes providing for internal revenue); and § 1345 (action commenced by the United States).⁷ The Mooneys have not presented any non-frivolous argument or case law in support of their repeated contention that this Court is somehow not an Article III court or that the Court otherwise lacks jurisdiction.

⁴ Dkt. 84 at 1.

⁵ Dkt. 78 (Order denying motion to dismiss) at 7; Dkt. 112 (Report and Recommendation) at 5-6; Dkt. 150 (Memorandum Opinion) at 13.

⁶ Dkt. 84 at 5.

⁷ Dkt. 78 at 7; Dkt. 150 at 13.

Conclusion

The Mooneys' motion to dismiss or vacate the judgment is frivolous, as this Court has already ruled that it is an Article III court with jurisdiction over this case and the defendants. Accordingly, the Mooneys' motion should be denied and no further hearing is necessary.

Dated: July 10, 2018

s/Michael R. Pahl
MICHAEL R. PAHL
Mn. Bar. No. 0234539
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-6488
email: michael.r.pahl@usdoj.gov

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the United States' Memorandum of Law in Opposition to Defendants' Motion to Dismiss/Vacate Judgment was filed electronically on July 10, 2018 by ECF and that service will be made by U.S. mail on the following non-ECF participants:

William Mooney
409 6th Avenue NW
Little Falls, MN 56345

Joni Mooney
409 6th Avenue NW
Little Falls, MN 56345

/s/Michael R. Pahl
Michael R. Pahl